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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,035	02/01/2002	Hiroshi Terada	10873.403USRE	3964

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EXAMINER

BRASE, SANDRA L

ART UNIT	PAPER NUMBER
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2852

DATE MAILED: 05/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/066,035

Applicant(s)

TERADA ET AL.

Examiner

Sandra L. Brase

Art Unit

2852

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 09/309,922.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Declaration

1. The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414.
2. The reissue oath/declaration filed with this application is defective because it fails to contain a statement that all errors which are being corrected in the reissue application up to the time of filing of the oath/declaration arose without any deceptive intention on the part of the applicant. See 37 CFR 1.175 and MPEP § 1414.
3. Claims 1-40 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2852

5. Claims 35 and 36 are rejected under 35 U.S.C. 102(e) as being anticipated by Abe et al. (US 6,049,691).

6. Abe et al. (...691) disclose an image heating device comprising: a heat-generating member comprising a magnetic layer (10A); a magnetization member (18) for magnetizing the heat-generating member with an alternating magnetic field, which is arranged in opposition to the heat-generating member (col. 15, lines 59-63); a nip portion (N) for heating a recording material that carries a toner image with heat from the heat-generating member, while the recording material is being conveyed along the nip portion (col. 15, line 63 – col. 16, line 5), wherein the nip portion is formed by a movable film contacting the heat-generating member (figure 13); and a pressure member (30) for pressing against the film. The heat-generating member contacts a rear surface of the film (figure 13).

7. Claims 35-38 and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Hayasaki et al. (US 5,819,150).

8. Hayasaki et al. (...150) disclose an image heating device comprising: a heat-generating member comprising a magnetic layer (1a); a magnetization member (4) for magnetizing the heat-generating member with an alternating magnetic field, which is arranged in opposition to the heat-generating member (col. 5, lines 58-65; and col. 7, lines 7-20); a nip portion (N) for heating a recording material that carries a toner image with heat from the heat-generating member, while the recording material is being conveyed along the nip portion (col. 8, lines 3-26), wherein the nip portion is formed by a movable film contacting the heat-generating member (figure 2A); and a pressure member (15) for pressing against the film. The heat-generating member contacts a rear surface of the film (figures 2A and 2B). The heating device can be configured such that the

Art Unit: 2852

heat-generating member contacts the rear surface of the film from a position upstream of the nip portion to a vicinity of the nip portion, and the magnetization member is provided at the position upstream of the nip portion (figure 11). The heating device can also be configured such that the heat-generating member is provided on the rear side of the film and contacts a portion of the film, and the magnetization member is provided on the surface side of the film (figure 12). The heat-generating member comprises a rotatable roller (figure 2A).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claim 39 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hayasaki et al. (US 5,819,150) in view of Okabayashi et al. (US 5,822,669).

Art Unit: 2852

12. Hayasaki et al. (...150) disclose the features mentioned previously, but do not disclose the claimed type of pressure member. Okabayashi et al. (...669) disclose a heating device that can alternately take the form of a belt device instead of a roller device, where a pressure member of the heating device comprises a roller with low thermal conductivity provided on the rear surface side of the film and a pressure roller provided on the front surface side of the film (col. 11, lines 28-55; and figures 20 and 21). It would have been obvious to one of ordinary skill in the art at the time of the invention to have the claimed pressure member since such a pressure member is used when the heating device takes the alternate form of a belt, as disclosed by Okabayashi et al. (...669).

Prior Art

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Senba et al. (US 5,724,637), Abe et al. (US 5,745,833), Ito et al. (US 6,035,174) and Abe et al. (US 6,078,780) disclose a heating device that includes a heat-generating member and a magnetization layer.

15. Carter et al. (US 4,256,945), Ohtsuka (US 5,568,240), Kato (US 5,713,069), Yoneda et al. (US 5,752,148), Kishino et al. (US 5,765,086), Morigami (US 5,768,673), Ohtsuka (US 5,778,293), Ogawa et al. (US 5,862,445), Nanataki et al. (US 5,881,349), Hatakeyama et al. (US 5,939,337) and Sano et al. (US 5,940,655) were cited in U.S. application 09/309,922 in which this reissue application was based upon and are relevant for the same reasons that they were relevant in application 09/309,922.

Art Unit: 2852

Contacts \ Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra L. Brase whose telephone number is (703) 308-3101.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Arthur T. Grimley, can be reached on (703) 308-1373. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3431 or 305-3432.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Sandra L. Brase
Primary Examiner
Art Unit 2852

May 5, 2003